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OCT 20 2004  
CLERK  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

12201 DPW

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Bay Mortgage Services, Inc. and  
Peter J. Lucido,

Plaintiffs,

vs.

U.S. Bancorp,

Defendant.

U.S. DISTRICT COURT  
DISTRICT OF MASS.  
No. \_\_\_\_\_

**NOTICE OF REMOVAL**

RECEIPT # \_\_\_\_\_  
AMOUNT \$ 150  
SUMMONS ISSUED N/A  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. FOW  
DATE 10/20/04

TO: Bay Mortgage Services, Inc. and Peter J. Lucido and their attorneys Allan J. Costa,  
Triffletti & Costa, P.C., 124 Long Pond Road, Plymouth, Massachusetts 02360.

Under 28 U.S.C. § 1446, defendant U.S. Bancorp ("U.S. Bancorp") hereby gives  
notice of the removal of the above-entitled action to the United States District Court for the  
District of Massachusetts, and in support of the Notice of Removal states as follows:

1. On or about September 20, 2004, Bay Mortgage Services, Inc. ("Bay  
Mortgage") and Peter J. Lucido ("Lucido") filed an action against U.S. Bancorp in the  
Superior Court of the Commonwealth of Massachusetts, Docket No. 04-1105, entitled Bay  
Mortgage Services, Inc. and Peter J. Lucido v. U.S. Bancorp (the "State Action"). A copy of  
the Summons and Complaint in the State Action are attached hereto collectively as Exhibit 1.

2. Bay Mortgage and Lucido also served interrogatories and requests for  
production of documents on U.S. Bancorp in the State Action, copies of which are attached  
hereto as Exhibits 2 and 3, respectively.

3. U.S. Bancorp moved to dismiss the claims in the State Action. A copy of U.S. Bancorp's motion is attached hereto as Exhibit 4.

4. The United States District Court for the District of Massachusetts has original jurisdiction over this action under 28 U.S.C. § 1332(a)(1).

a. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Bay Mortgage and Lucido seek (among other things) a declaration from this Court that the lease at issue is void and unenforceable. Bay Mortgage and Lucido allege that the total of the lease payments that they seek to avoid is approximately \$80,000.

b. The matter in controversy is between citizens of different States. Bay Mortgage states in its Complaint that it is a Massachusetts corporation with its principal place of business in Massachusetts; Lucido states that he is an individual citizen of Massachusetts. U.S. Bancorp is a Delaware corporation with its principal place of business in Minnesota.

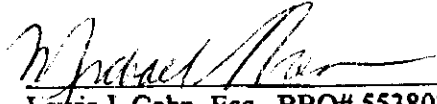
5. This notice of removal is filed within thirty days after service of the Summons and Complaint on U.S. Bancorp, and all process, pleadings, and orders heretofore served upon U.S. Bancorp are attached hereto as Exhibits 1 through 4.

6. The United States District Court for the District of Massachusetts is the District Court for the district embracing the entire state of Massachusetts, where the State Action is currently pending. See 28 U.S.C. § 101.

7. U.S. Bancorp expressly reserves its right to raise all defenses and objections to plaintiffs' claims after the action is removed to the above Court.

Respectfully submitted,  
U.S. Bancorp  
By its attorneys,  
Cohn & Dussi, LLC,

Dated: October 20, 2004



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Lewis J. Cohn, Esq., BBO# 553803  
Michael H. Theodore, BBO# 565098  
25 Burlington Mall Road, Sixth Floor  
Burlington, MA 01803  
(781) 494-0200

M2:20664971.01

**CERTIFICATE OF SERVICE**

I, Michael H. Theodore, hereby certify that on this 20<sup>th</sup> day of October, 2004, I caused to be served by first class mail, postage pre-paid, a copy of the foregoing Notice of Removal upon:

Allan J. Costa  
Triffletti & Costa, P.C.  
124 Long Pond Road  
Plymouth, MA 02360